

an advertising media purchase, said media purchase relating to a predetermined subject matter and being placed in either of movies, video, television, interactive television, radio and print media within a stated geographic area;

said media purchase including either of an Internet website address and other unique trackable identifier for accessing further information related to the subject matter of the media purchase; ...

means for tracking the timing of Internet-related goals achieved by said Internet user related to his accessing said Internet website address; ...

Likewise, the specification also shows how the Internet website address is included in the media purchase:

On page 4, lines 11-15

“An advertising media purchase is provided. The media purchase relates to a predetermined subject matter and is placed in movies, video, television, interactive television, radio or print media within a stated geographic area. The media purchase includes either an Internet website address or other unique trackable identifier for accessing further information related to the subject matter of the media purchase.”

On page 5, lines 2-3

“Means are provided for tracking the timing of Internet-related goals achieved by the Internet user related to his accessing the Internet website address.”

For example, as shown in Figure 1, the Internet website address is included in the television or newspaper advertisement (the media purchase) for a pickup truck.

The Examining Attorney further states that “The specification does not disclose how the system identifies whether the Internet related goals achieved by the Internet user of an Internet website is related to the media purchase or not.”

The system does not identify whether the Internet related goals achieved by the Internet user of an Internet website are related to the media purchase or not and does not claim to do so. That is, there is no actual linkage between the achievement of Internet related goals and the media purchases. Rather, the system is designed to determine the extent of and to report on the correlation of Internet-related goals achieved with media purchases in determined geographic areas. As evidence of this, the clauses of Claim 7 illustrate data captured relating to goals achieved before and after media purchases:

... wherein the means for correlating and reporting the timing of Internet-related goals achieved by an Internet user with the start date, end date and a residual period for media purchases within said stated geographic area further comprises:

✓ baseline statistical reports of media goals achieved absent media purchases;
statistical reports detailing media goals achieved after media purchases; and
reports comparing baseline statistics to those resulting from media purchases in stated geographical areas.

In similar fashion, this data capture feature is described in the specification:

On page 6, lines 16-21

“In still another variant, the means for correlating and reporting the timing of Internet-related goals achieved by an Internet user with the start date, end date and a residual period for media purchases within the stated geographic area includes baseline statistical reports of media goals achieved absent media purchases, statistical reports detailing media goals achieved after

media purchases, and reports comparing baseline statistics to those resulting from media purchases in stated geographical areas.”

This principal is also illustrated in Figure 20. Rather than saying that the system can determine if an Internet-related goal was achieved as a result of the media purchase, the system says, a media purchase was made in a geographical area and Internet-related goals (website hits, downloads, online purchases, etc.) occurred in that geographical area. The system utilizes a means to determine the geographical location of Internet users achieving the Internet-related goals and displays a correlation with media purchases made in those geographical areas.

By analogy, one cannot usually tell with any certainty that the purchaser of a product saw a television commercial prior to the purchase, however, if many products are purchased in an area where a television commercial for the product is airing, one can demonstrate a correlation between the media purchase and the sales goals achieved. What this system adds to the prior art is the ability to track the achievement of Internet-related goals in determined geographic areas over time and to determine and report on the correlation of these goals with media purchases in these geographic areas.

The Examining Attorney further states that “Since Claims 2-8 are dependent upon the essential or critical feature, those claims are also rejected as containing subject matter which is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

As the above discussion should demonstrate that the inventors did have possession of the claimed invention at the time of filing, obviating this §112 rejection for Claim 1, this rejection for Claims 2-8, depending upon Claim 1, should no longer be at issue.

3. The Examining Attorney has rejected Claims 1-8 under 35 U.S.C. §112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable

one skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention.

To respond to this rejection Applicant will provide an explanation or reference for each clause of Claim 1 describing how one skilled in the relevant art could make or use the invention. These explanations or references will be shown in parentheses ().

1. A media purchase goal correlation system, comprising:

an advertising media purchase, said media purchase relating to a predetermined subject matter and being placed in either of movies, video, television, interactive television, radio and print media within a stated geographic area; (typically an advertisement for a product or service placed in any of the described media for a stated geographic area)

said media purchase including either of an Internet website address and other unique trackable identifier for accessing further information related to the subject matter of the media purchase; (an Internet website address or other unique trackable identifier, such as a code number to be used in a special purchase offer, is provided to the recipient of the advertisement, through visual or auditory means)

a first database, said first database containing records relating to the start date, end date, and stated geographic area for a plurality of media purchases; (such database technology is well known to those skilled in the art)

means for inputting and maintaining records in said first database; (such means are well known to those skilled in the art)

means for determining the geographic location associated with an Internet

Protocol address; (this technology is described in the cited *Ryu* 6,377,961 patent as well as methods used by the Quova and Digital Envoy firms)

means for grouping said geographic locations into uniform stated geographic

areas; (this involves merely deciding which geographic locations to group into the stated geographic areas, i.e., all cities within a county, all states east of the Mississippi river, etc.)

a second database, said second database containing records correlating Internet

Protocol addresses of Internet users with stated geographic areas; (such database technology is well known to those skilled in the art)

means for inputting and maintaining records in said second database; (such means

are well known to those skilled in the art)

means for determining the Internet Protocol address of an Internet user accessing

said Internet website address; (this technology is well known in the art and used by many companies selling products or services over the Internet to target e-mail advertising to those accessing their online websites)

means for tracking the timing of Internet-related goals achieved by said Internet

user related to his accessing said Internet website address; (it is well known in the art how to determine the timing of the occurrence of an Internet-related event or goal such as a website hit, purchase, download, etc. as this timing information is routinely available from any website being accessed by an Internet user. The tracking only requires the input of this information into the first database)

means for accessing said second database and assigning a stated geographic area to said user's Internet-related goals; (means for accessing a database are well known in the art. As the system has determined the geographic location of the Internet Protocol address of the user, when the user completes an Internet-related goal (such as an online purchase) the geographic location associated with the achieved goal will be known. As stated geographic areas have been assigned for geographic locations, a stated geographic location may be assigned to the achieved goal)

means for inputting the timing of occurrences of said Internet-related goals and assigned stated geographic area to said first database; and (this type of data transfer between databases is well known in the art)

means for correlating and reporting the timing of Internet-related goals achieved by said Internet user with the start date, end date and a residual period for media purchases within said stated geographic area. (it is well known in the art to produce various tabular and graphical representations illustrating the relationship between the occurrences of starting, ending and residual period (a period between the end date of the media purchase and the residual date – see Figure 1) of a media purchase earlier input to the first database with the achievement of Internet related goals, their timing and geographic locations. Some of these representations are illustrated in Figures 1, 6, 10, 12 and 20)

Applicant has reviewed Claims 2-8 and finds no subject matter that is not well known in the art and thus, given the explanations and references relating to Claim 1 above, one skilled in the art should have no difficulty practicing the invention as described in these claims.

4. The Examining Attorney has rejected Claims 1-8 under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examining Attorney states that “It is not clear whether the media purchase includes ‘the Internet website address’ or the ‘unique trackable identifier’ or both.”

Applicant asserts that the use of a phrase of the form “either of element A and element B” is commonly and routinely used patent phraseology to indicate that an invention includes one of the two recited elements. This language is used expressly to avoid the suggestion of ambiguity fostered by the use of “or” in claim language. This assertion is further supported by the specification, page 9 lines 19-21 that teaches the media purchase to include the Internet website address or the unique trackable identifier. Thus the interpretation suggested by the Examining Attorney is, in fact, the correct one, thus there should be no ambiguity here.

5. The Examining Attorney has stated that “Claims 1-8 recite ‘residual period of media purchase’ and that the claimed invention is not described in Applicant’s specification, such that it fails to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.”

One definition of “residual” is “The quantity left over at the end of a process; a remainder.”¹ In this case the “process” is the media purchase as defined by its start date and its

¹Excerpted from *The American Heritage Dictionary of the English Language, Third Edition* Copyright © 1992 by Houghton Mifflin Company

end date. Thus, the residual period of media purchase is the period after the end date of the media purchase. As Internet-related goals achieved have been found to taper off after the media purchase end date, for measurement purposes, this residual period is cut off after the residual date thus making the “residual period of media purchase” the period between the media purchase end date and the residual date shown in Figures 1 and 6.

In order to more particularly point out and distinctly claim the subject matter which the Applicant regards as the invention, Applicant hereby requests that the specification be amended as follows on page 5, lines 6-12 (first full paragraph) :

(amended) Means are provided for inputting the timing of occurrences of the Internet-related goals and assigned stated geographic area to the first database. Means are provided for correlating and reporting the timing of Internet-related goals achieved by the Internet user with the start date, end date and a residual period for media purchases within the stated geographic area. The residual period is defined as the period between the media purchase end date and a predetermined residual date after which the achievement of Internet-related goals will not be measured.

Claim Rejections 35 U.S.C. §103

The Examining Attorney has rejected Claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over BradddataTM as stated in the articles identified as *Parks* and *web.archive.org* and further in view of *Ryu* U.S. patent No. 6,377,961. The Examining Attorney states “Bradddata teaches tracking advertising media purchase relating to a predetermined subject matter and being placed in either movies, video,... within a stated geographical area, said media purchase including unique trackable identifier (barcode) (see page 1 of *web.archive.org*), database

containing records relating to the start date, end date and stated geographical area for a plurality of media purchases and means for inputting and maintaining records in a first database (see page 1 of Parks).

Applicant respectfully disagrees with the Examining Attorney in that the system described as BrandData is essentially different than that which is the subject of the instant invention. First, the BrandData system deals exclusively with coupons. "...a web-based coupon marketing intelligence system designed for retailers and manufacturers to use in measuring the effectiveness of brand and private label couponing programs." *Parks*, page 1, par 1. Coupons, by their very nature, must be printed and thus cannot be provided in other than print media. Coupons cannot be provided in movies, video, television, interactive television or radio advertising and thus the BrandData invention is much more limited in scope than is the present invention as it provides no way for users of the system to measure the effectiveness of advertising media purchases in any venue other than printed advertisements.

Second, a consumer can only do one thing with a coupon. A coupon may be applied to a purchase to receive a discount. None of the Internet-related goals such as downloads, arrivals at specified web addresses, user data capture, sales lead generation, identification of dealer locations, viewing of specific text, viewing of specific images or receiving sound transmissions (see Claim 4 of the instant invention) can be achieved through the use of coupons conveyed to consumers through printed media. The only end similar to an Internet-related goal that can be achieved through the use of coupons is a sale and these sales provide no means to track the sale to anything other than the distribution of the coupon to the consumer. A sale of this nature could not be correlated with a consumer that had accessed a website found in a media purchase as the

BrandData system does not provide for such websites, but rather only tracks the use of coupons found in printed media or otherwise distributed.

Third, the BrandData system does not provide for any interaction with the consumer other than to track use of coupons in geographic areas over time. In the instant invention, the consumer is provided with a website address through advertising delivered in a wide variety of media, namely, television, movies, video, radio, interactive television, and also print media. The consumer is then able to use this website to achieve a variety of Internet-related goals as discussed above. The variety of these goals provides much more information about the consumer than does a simple purchase or no-purchase decision. The instant invention can provide, based upon the Internet-related goal achieved, an insight into the relative interest of the consumer. For example, it can show that the consumer was interested enough to visit the website, but not interested enough to make a purchase. The consumer may be sufficiently interested to view an online video or link to a related site but not make a purchase. He may seek answers to questions regarding a product. All of this additional information, which can be provided through the present invention, represents a substantial improvement over the BrandData system and thus patentable subject matter.

The Examining Attorney further states "*Ryu* teaches a database correlating Internet address and geographical address. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine BrandData's tracking of distributed coupon[s] and *Ryu*'s Internet address and geographical address database in order [to] allow the distributors of the coupon to access the server that tracks the distributed coupons.

In the BrandData system, a website is provided that allows users of the system to examine categories and then brands within that category on a market-by-market basis and view ads that ran

carrying a coupon to gain marketing intelligence about the image being created for that brand. Information includes the dollar value of a coupon, the circulation for a coupon and the frequency of coupon drops. *Parks*, page 1, paragraph 3. This server could be accessed from anywhere that access to the Internet is available. There is no need for or possible use for *Ryu*'s Internet address and geographical address database "in order to allow the distributors of the coupon to access the server that tracks the distributed coupons." The distributors of the coupons need only access the BrandData database to see where the coupons were distributed. Thus the combination of *Ryu*'s database with the BrandData database would not yield the present invention.

In contrast, the present invention does require the use of a system to determine the geographic location of an Internet address of a consumer accessing the website of an advertiser so that the advertiser may determine the geographic location of those responding to his advertising media purchases. In this way, the present invention adds an additional dimension not found in the BrandData system in that the advertiser can determine that a consumer was sufficiently motivated by his advertisement to go to the provided website and achieve any of a number of the enumerated Internet-related goals. The present invention can then tell the advertiser the geographic location of the responding consumers, the goals that they achieved and the period over which these goals were realized. The system can also provide various types of statistical analyses to compare the achievement of these goals to a baseline (no advertising media purchases) period.

"The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That

knowledge cannot come from the applicant's invention itself.” *In re Oetiker*, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992).

Here the Internet address and geographical address database of *Ryu* and the BrandData system are certainly non-analogous sources as the former is a Method for Displaying Internet Search Results and the latter is a system for tracking use of coupons. Further, as discussed above, they cannot be combined to yield the present invention. Finally, as the BrandData system cannot be enhanced or even used in any fashion in combination with the *Ryu* invention, there is necessarily no reason, suggestion, or motivation found in either *Ryu* or BrandData whereby a person of ordinary skill in the field of the invention would make the combination.

In summary, as *Ryu* cannot be combined with the BrandData system to yield the present invention, Applicant maintains that the rejection under 35 U.S.C. 103(a) cannot be maintained.

Prior Art Made of Record and Not Relied Upon

Applicant has reviewed the other references cited and determined that none of these references, individually or in combination, disclose the present invention.

Extension of Time

As this Office Action was subject to a 3 month statutory period from the mailing date of the communication and as this Response is filed prior to the expiration of the fourth month from said date, enclosed please find a credit card form authorizing a charge of \$55 as the fee for a one month extension of time for a small entity.